

Hour Division, Employment Standards Administration, Labor.

ACTION: Interim final rule; extension of effective date.

SUMMARY: The Department of Labor has promulgated regulations for filing and enforcement of attestations by employers seeking to use certain alien crewmembers to perform longshore work at U.S. ports. This document extends the expiration date of the interim final rule.

DATES: *Effective Dates:* May 28, 1991, through March 31, 1992.

In FR Doc. 91-12718, 56 FR 24648 (May 30, 1991), the Department of Labor published an interim final rule effective through December 31, 1991. This document extends the expiration date through March 31, 1992.

FOR FURTHER INFORMATION CONTACT: On 20 CFR part 655, subpart F, and 29 CFR part 506, subpart F, contact David O. Williams, Chair, Immigration Task Force, Employment and Training Administration, Department of Labor, room N-4470, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone: (202) 535-0174 (this is not a toll-free number).

On 20 CFR part 655, subpart G, and 29 CFR part 506, subpart G, contact Solomon Sugarman, Wage and Hour Division, Employment Standards Administration, Department of Labor, room S-3502, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone: (202) 523-7605 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: On May 30, 1991, the Department of Labor (DOL) published in interim final rule adding, at 20 CFR part 655, subparts F and G, and at 29 CFR part 506, subparts F and G, regulations for filing and enforcement of attestations by employers seeking to use certain alien crewmembers to perform longshore work at U.S. ports, pursuant to section 258 of the Immigration and Nationality Act. 56 FR 24648 (May 30, 1991); see 8 U.S.C. 1288. Public comments were invited through July 29, 1991, and the interim final rule was effective from May 28, 1991, through December 31, 1991.

DOL has determined that it requires additional time to review and consider the information presented in the public and agency comments. This review will extend past December 31, 1991. So as not to have an interruption in the regulations governing the program, DOL is extending the expiration date for the interim final by three months, before which time a final rule is expected to be published.

Accordingly, FR Doc. 91-12718, 56 FR 24648 (May 30, 1991), is amended, by revising the first sentence in the "DATES" section to read "Effective dates: May 28, 1991, through March 31, 1992."

Signed at Washington, D.C., this 30th day of December, 1991.

Lynn Martin,
Secretary of Labor.

[FR Doc. 91-31333 Filed 12-31-91; 11:34 am]

BILLING CODE 4510-30-M, 4510-27-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 177

[Docket No. 87F-0332]

Indirect Food Additives; Polymers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of ethylene-chlorotrifluoroethylene copolymer in repeated use articles intended for use in contact with food. This action is in response to a petition filed by Ausimont USA, Inc.

DATES: Effective January 3, 1992; written objections and requests for a hearing by February 3, 1992. The Director of the Office of the Federal Register approves the incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 of a certain publication in 21 CFR 177.1380(a)(4), effective January 3, 1992.

ADDRESSES: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parkawn Dr. Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Vir Anand, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of November 6, 1987 (52 FR 42728), FDA announced that a food additive petition (FAP 7B4040) had been filed by Ausimont USA, Inc., Fluoropolymer Division, P.O. Box 2332 R, Morristown, NJ 07960, proposing that § 177.1380 *Fluorocarbon resins* (21 CFR 177.1380) be amended to provide for the safe use of ethylene-chlorotrifluoroethylene

copolymer in articles intended for repeated use contact with food.

In its evaluation of the safety of this additive, FDA has reviewed the safety of both the additive itself and the starting materials used to manufacture the additive. Although the additive itself has not been found to cause cancer, it has been found to contain minute amounts of chloroform, a carcinogen, used in the manufacturing process. Residual amounts of reactants and manufacturing aids, such as chloroform, are commonly found as contaminants in chemical products, including food additives.

I. Determination of Safety

Under section 409(c)(3)(A) of the Federal Food, Drug, and Cosmetic Act (the act) [21 U.S.C. 348(c)(3)(A)], the so-called "general safety clause" of the statute, a food additive cannot be approved for a particular use unless a fair evaluation of the data available to FDA establishes that the additive is safe for that use. The concept of safety embodied in the Food Additives Amendment of 1958 is explained in the legislative history of the provision: "Safety requires proof of a reasonable certainty that no harm will result from the proposed use of an additive. It does not—and cannot—require proof beyond any possible doubt that no harm will result under any conceivable circumstance." (H. Rept. 2234, 85th Cong., 2d Sess. 4 (1958)). This definition of safety has been incorporated into FDA's food additive regulations (21 CFR 170.3(i)). The anticancer, or Delaney clause, of the Food Additives Amendment (section 409(c)(3)(A) of the act) provides further that no food additive shall be deemed to be safe if it is found to induce cancer when ingested by man or animal.

In the past, FDA has refused to approve the use of an additive that contained or was suspected of containing even minor amounts of a carcinogenic chemical, even though the additive as a whole had not been shown to cause cancer. The agency now believes, however, that developments in scientific technology and experience with risk assessment procedures make it possible for FDA to establish the safety of additives that contain carcinogenic chemicals but that have not themselves been shown to cause cancer.

In the preamble to the final rule permanently listing D&C Green No. 6, published in the Federal Register of April 2, 1982 (47 FR 14138), FDA explained the basis for approving the use of a color additive that had not been shown to cause cancer, even though it

contains a carcinogenic impurity. Since that decision, FDA has approved the use of other color additives and food additives on the same basis.

An additive that has not been shown to cause cancer, but that contains a carcinogenic impurity, may properly be evaluated under the general safety clause of the statute using risk assessment procedures to determine whether there is a reasonable certainty that no harm will result from the proposed use of the additive.

The agency's position is supported by *Scott v. FDA*, 728 F.2d 322 (6th Cir. 1984). That case involved a challenge to FDA's decision to approve the use of D&C Green No. 5, which contains a carcinogenic chemical but has itself not been shown to cause cancer. Relying heavily on the reasoning in the agency's decision to list this color additive, the U.S. Court of Appeals for the Sixth Circuit rejected the challenge to FDA's action and affirmed the listing regulation.

II. Safety of Petitioned Use

FDA estimates that the petitioned use of the additive, ethylene-chlorotrifluoroethylene copolymer, will result in extremely low levels of exposure to the additive. The agency calculated the estimated daily intake of the additive based on several factors, including the migration of the additive under the most severe intended conditions of use and the probable concentration of the additive oligomers in the daily diet from its use in contact with repeat use food contact articles. The agency estimated the daily intake of the additive oligomers to be 28 nanograms per person per day.

FDA does not ordinarily consider chronic testing necessary to determine the safety of an additive whose use will result in such low exposure levels (Refs. 1 and 2), and the agency has not required such testing here.

Because ethylene-chlorotrifluoroethylene copolymer, which may contain chloroform, has not been shown to cause cancer, the Delaney anticancer clause (section 409(c)(3)(A) of the act) does not apply to it. However, FDA has evaluated the safety of this additive under the general safety clause, considering all available data and using risk assessment procedures to estimate the upper bound limit of risk presented by chloroform, the carcinogenic chemical that may be present as an impurity in the additive.

The risk assessment procedures that FDA used in this evaluation are similar to the methods that the agency has used to examine the risk associated with the presence of minor carcinogenic

impurities in various other food and color additives that contain carcinogenic impurities (see e.g., 49 FR 13018 at 13019, April 2, 1984). This risk evaluation of the carcinogenic impurity, chloroform, has two aspects: (1) Assessment of the worst case exposure to the impurity from the proposed use of the additive; and (2) extrapolation of the risk observed in the animal bioassays to the conditions of probable exposure to humans.

A. Chloroform

Based on the fraction of the daily diet that may be in contact with surfaces containing ethylene-chlorotrifluoroethylene copolymer, and on the level of chloroform that may be present in the additive, FDA estimated the hypothetical worst case exposure to chloroform from the use of ethylene-chlorotrifluoroethylene copolymer food contact articles to be less than 2 nanograms per person per day (Ref. 3). The agency used data in a 1985 study by Jorgenson et al., in male Osborne Mendel rats and female B6C3F1 mice to estimate the upper bound limit of lifetime human risk from exposure to this chemical stemming from the proposed use of ethylene-chlorotrifluoroethylene copolymer (Ref. 4). The results of the bioassay demonstrated that chloroform was carcinogenic in male rats when administered in drinking water.

The Center for Food Safety and Applied Nutrition's Cancer Assessment Committee (the committee) reviewed this bioassay and other relevant data available in the literature and concluded that the findings of carcinogenicity were supported by this information on chloroform. The committee further concluded that an estimate of the upper bound human risk from exposure to chloroform stemming from the proposed use of ethylene-chlorotrifluoroethylene copolymer could be calculated from these data.

The agency used a quantitative risk assessment procedure (linear proportional model) to extrapolate from the dose used in the study with male rats (the most sensitive animals) to the very low doses encountered under the proposed conditions of use. This procedure is not likely to underestimate the actual risk from very low doses and may, in fact, exaggerate it because the extrapolation models used are designed to estimate the maximum risk consistent with the data. For this reason, the estimate can be used with confidence to determine to a reasonable certainty whether any harm will result from the proposed conditions and levels of use of the food additive.

Based on a worst case exposure of less than 2 nanograms per person per day, FDA estimates that the upper bound limit of individual lifetime risk from potential exposure to chloroform from the use of ethylene-chlorotrifluoroethylene copolymer is 1×10^{-11} , or less than 1 in 100 billion (Ref. 5). Because of numerous conservatism in the exposure estimate, lifetime-averaged individual exposure to chloroform is expected to be substantially less than the estimated daily intake, and therefore, the calculated upper bound limit of risk would be less. Thus, the agency concludes that there is a reasonable certainty of no harm from exposure to chloroform that might result from the proposed use of ethylene-chlorotrifluoroethylene copolymer repeat use food-contact articles.

B. Need for Specifications

The agency has also considered whether a specification is necessary to control the amount of chloroform impurity in the food additive. The agency finds that a specification is not necessary for the following reasons: (1) Because of the low level at which chloroform may be expected to remain as an impurity following production of the additive, the agency would not expect this impurity to become a component of food at other than extremely small levels; and (2) the upper bound limit of lifetime risk from exposure to this impurity, even under worst case assumptions, is very low (less than 1 in 100 billion).

C. Conclusion on Safety

FDA has evaluated the data in the petition and other relevant material. The agency concludes that the proposed use for the additive in repeat use food-contact articles is safe. Based on this information the agency has also concluded that the additive will have its intended technical effect and therefore, § 177.1380 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

D. Potential Environmental Effects

The agency has carefully considered the potential environmental effects of this action, including potential effects on stratospheric ozone and potential impacts associated with incineration of halogenated polymers.

1. Potential Effects On Stratospheric Ozone

This action will permit a new use for one of the chlorofluorocarbons (CFC's), a class of chemicals that has been implicated in the destruction of the stratospheric ozone layer. During its review of this petition, FDA consulted with the Environmental Protection Agency (EPA) to determine whether FDA approval of the petition would be consistent with EPA's efforts to control CFC's. On March 3, 1989, EPA advised FDA that the proposed new use of this CFC would not be inconsistent with EPA's current regulatory program to protect stratospheric ozone, which restricts allowable production in lieu of controls on particular uses (40 CFR Part 82). EPA advised FDA that approval would not add to total CFC emissions to the atmosphere but would instead mean that less CFC's were available for current uses. EPA stated that the rate of CFC emissions from the proposed use will be far less than from most current uses of these chemicals. EPA also noted that the projected use of CFC's is very small, that the recycling system proposed by the petitioner would capture virtually all of the CFC emissions, and that it should be feasible to switch to a chemical alternative to CFC's when one becomes available.

2. Potential Impacts Associated With Incineration of Halogenated Polymers

In the Federal Register of November 22, 1989 (53 FR 47264), FDA published a notice of intent to prepare an environmental impact statement (EIS) on the effects of the proposed amendments to its food additive regulations to provide for the safe use of vinyl chloride polymers. In the notice of intent, FDA considered whether several food additive petitions that involved halogenated polymers, including the subject petition, should be included as part of the environmental review of the proposed rule on vinyl chloride. FDA decided not to consider the environmental impact of the subject petition in the EIS. This petition concerns a copolymer that will be used in food-processing plants as piping to carry various foods, including hot water. In contrast to disposable food-packaging materials, this type of product is likely to be disposed of by methods other than

incineration, such as special landfills. Consequently, any environmental impact associated with incineration of this halogenated polymer would be averted.

Based on full consideration of the potential environmental effects of this action, FDA has concluded that the action will not have a significant impact on the human environment and that an EIS is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

III. Objections

Any person who will be adversely affected by this regulation may at any time on or before February 3, 1992 file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

IV. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Carr, G.M., "Carcinogen Testing Programs," in "Food Safety: Where are We?", Committee on Agriculture, Nutrition, and Forestry, U.S. Senate, p. 59, July 1979.
2. Kokoski, C.J., "Regulatory Food Additive Toxicology," in *Chemical Safety Regulation*

and Compliance, ed. by F. Homburger and J.K. Marquis, S. Karger, New York, NY, pp. 24-33, 1985.

3. Memorandum dated November 17, 1989, from the Food and Color Additives Review Section to Indirect Additives Branch, "FAP 7B4040—Ausimont USA, Inc.—Exposure to Components of the Copolymer."

4. "Carcinogenicity of Chloroform in Drinking Water to Male Osborne Mendel Rats and Female B6C3F1 Mice," Jorgenson, T.A., E.F. Meierhenry, C.J. Rushbrook, R.J. Bull, and M. Robinson, *Fundamental and Applied Toxicology*, 5:760-769, (1985).

5. Memorandum dated January 30, 1990, from Quantitative Risk Assessment Committee, "Estimation of Upper Bound Risks for Chloroform in Ethylene/chlorotrifluoroethylene (E/CTFE) Copolymers," (Ausimont USA, Inc.), FAP 7B4040.

List of Subjects in 21 CFR Part 177

Food additives, Food packaging, Incorporation by reference.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 177 is amended as follows:

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

1. The authority citation for 21 CFR part 177 continues to read as follows:

Authority: Secs. 201, 402, 409, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 376).

2. Section 177.1380 is amended by adding new paragraph (a)(4) and by revising paragraph (b) to read as follows:

§ 177.1380 Fluorocarbon resins.

• • • • •
(a) • • •

(4) Ethylene-chlorotrifluoroethylene copolymer resins produced by copolymerization of nominally 50 mole percent of ethylene and 50 mole percent of chlorotrifluoroethylene. The copolymer shall have a melting point of 239 to 243°C and a melt index of less than or equal to 20 as determined by ASTM Method D 3275-89 "Standard Specification for E-CTFE-Fluoroplastic Molding, Extrusion, and Coating Materials," which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be obtained from the American Society for Testing and Materials, 1916 Race St., Philadelphia, PA 19103, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC.

(b) Fluorocarbon resins that are identified in paragraph (a) of this section and that comply with extractive

limitations prescribed in paragraph (c) of this section may be used as articles or components of articles intended for use in contact with food as follows:

(1) Fluorocarbon resins that are identified in paragraphs (a)(1), (a)(2), and (a)(3) of this section and that comply only with the extractive limitations prescribed in paragraphs (c)(1) and (c)(2) of this section may be used when such use is limited to articles or components of articles that are intended for repeated use in contact with food or that are intended for one-time use in contact with foods only of the types identified in § 176.170(c) of this chapter, Table 1, under Types I, II, VI, VII-B, and VIII.

(2) Fluorocarbon resins that are identified in paragraph (a)(4) of this section and that comply with the extractive limitations prescribed in paragraphs (c)(1) and (c)(2) of this section may be used only when such use is limited to articles or components of articles that are intended for repeated use in contact with food.

(3) In accordance with current good manufacturing practice, those food-contact articles intended for repeated use shall be thoroughly cleansed prior to their first use in contact with food.

Dated: December 27, 1991.

Robert L. Spencer,

Acting Deputy Commissioner for Policy

[FR Doc. 92-55 Filed 1-2-92; 8:45 am]

BILLING CODE 4180-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FR 4090-8]

40 CFR Part 281

Vermont; Final Approval of State Underground Storage Tank Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of final determination on Vermont's application for final approval.

SUMMARY: The State of Vermont has applied for final approval of its underground storage tank program under subtitle I of the Resource Conservation and Recovery Act. The Environmental Protection Agency (EPA) has reviewed Vermont's application and has reached a final determination that Vermont's underground storage tank program satisfies all the requirements necessary to qualify for final approval. Thus, EPA is granting final approval to the State of Vermont to operate its program.

EFFECTIVE DATE: Final approval for Vermont shall be effective at 1 p.m. on February 3, 1992.

FOR FURTHER INFORMATION CONTACT: Joan Coyle, Office of Underground Storage Tanks, HPU-1, U.S. EPA, Region I, JFK Federal Building, Boston, MA 02203, (617) 573-9667.

SUPPLEMENTARY INFORMATION:

A. Background

Section 9004 of the Resource Conservation and Recovery Act (RCRA) enables EPA to approve state underground storage tank programs to operate in a state in lieu of the Federal underground storage tank program. To qualify for final authorization, a state's program must: (1) Be "no less stringent" than the Federal program, and (2) provide for adequate enforcement. Section 9004 (a) and (b) of RCRA, 42 U.S.C. 6991c (a) and (b).

On July 3, 1991, as required by 40 CFR 281.50(c), EPA acknowledged receiving from the State of Vermont a complete official application requesting final approval to administer its underground storage tank program. On September 16, 1991, EPA published a tentative decision announcing its intent to grant Vermont final approval of its program. See 56 FR 46756 (1991). Further background on EPA's tentative decision to grant approval is included in that decision.

Along with the tentative determination, EPA announced the availability of the application for public comment and the date of a public hearing on the application. EPA requested advance notice for testimony and reserved the right to cancel for lack of public interest. Since there was no public interest, the public hearing was cancelled. No public comments were received regarding EPA's approval of Vermont's underground storage tank program.

B. Decision

I conclude that the State of Vermont's application for final approval meets all of the statutory and regulatory requirements established by subtitle I of RCRA. Accordingly, Vermont is granted final approval to operate its underground storage tank program. The State of Vermont now has the responsibility for managing all regulated underground storage tank facilities within its borders and carrying out all aspects of the Federal underground storage tank program except with regard to Indian lands, where EPA will continue to have regulatory authority. Vermont also has primary enforcement responsibility, although EPA retains the right to conduct inspections under

section 9005 of RCRA, 42 U.S.C. 6991d, and to take enforcement actions under section 9006 of RCRA, 42 U.S.C. 6991e.

Authority: Section 9004 of the Solid Waste Disposal Act as amended, 42 U.S.C. 6991c.

Dated: December 30, 1991.

Julie Belaga,

Regional Administrator.

[FR Doc. 92-81 Filed 1-2-92; 8:45 am]

BILLING CODE 6580-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[Gen. Docket No. 90-312, FCC 91-397]

Denials of Federal Benefits

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission is adopting final rules to implement the provisions of section 5301 of the Anti-Drug Abuse Act of 1988 concerning denial of federal benefits to persons convicted of drug related crimes. The rules require applicants for professional or commercial licenses to certify that they are not subject to a section 5301 denial of benefits. This will help ensure that applicants subject to a section 5301 denial are not granted licenses by the Commission. [Initiating document: NPRM 55 FR 37438 (Sept. 11, 1990)].

EFFECTIVE DATE: February 3, 1992.

FOR FURTHER INFORMATION CONTACT: Sharon Diskin, Office of General Counsel, Federal Communications Commission (202) 632-6990.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, adopted December 11, 1991 and released December 27, 1991. The full text of the Report and Order including a Final Regulatory Flexibility Analysis, is available for inspection and copying during normal business hours in the FCC Docket Branch (room 230), 1919 M Street NW., Washington, DC. The full text of this Report and Order may also be purchased from the Commission's contractor, Downtown Copy Center, 1114 21st Street, NW, Washington, DC 20036, (202) 452-1422.

Summary of Report and Order

1. These rules implement section 5301 of the Anti-Drug Abuse Act of 1988 with respect to professional and commercial licenses issued by the Commission. Section 5301 provides Federal and state court judges the discretion to deny Federal benefits to individuals

convicted of offenses consisting of the distribution or possession of controlled substances. 21 U.S.C. 853a. Federal benefits, as used in the statute, include licenses issued by the FCC. 21 U.S.C. 853a(d)(1).

2. The Office of National Drug Control Policy (ONDCP) plan for the implementation of section 5301 calls for agencies to use the General Services Administration (GSA) publication "Parties Excluded from Federal Procurement of Nonprocurement Programs" (commonly referred to as the "Debarment List") in determining which persons have been barred from Federal benefits under section 5301. In addition, the ONDCP plan calls for agencies to use an applicant certification. No rule changes are necessary to implement the use of the GSA Debarment List in connection with applications. The application forms used by the Commission do not, however, include the certification referred to in the ONDCP plan. We are therefore amending part 1 of the Commission's rules by adding a new subpart P, 47 CFR 1.2001 *et seq.*, that will require applicants to certify that neither they nor any parties to the application are subject to a section 5301 bar.

3. With one exception, the rules apply to applicants for all forms of Commission instruments of authority, including, for example, authorizations for the use of radio spectrum, radio operator authorizations, equipment certifications, type acceptances or type approvals, and certificates of authority to construct communications lines. Because section 5301 applies only to "professional" and "commercial" licenses, the rules exempt amateur authorizations which may not be used for professional and commercial purposes. Further, because they do not involve applications or the issuance of individual licenses by the Commission, the rules do not apply to individual users of a blanket license (*e.g.*, cellular radio users). The certification requirement adopted in the final rule differs from that proposed in the NPRM in two respects: (1) In order to provide for an orderly transition to the certification requirement, the rules provide that, for authorizations that involve a specific form, until such time as the application form is amended to contain a certification provision, the applicant will be deemed to have certified as to its eligibility by signing the application; (2) The proposed rule stated that failure to certify would lead to automatic dismissal of the application. In order to give corporations and partnerships an

opportunity to seek the removal of parties to the application who are subject to a denial of benefits under section 5301, the adopted rules provide that an application will not be dismissed automatically for failure to certify. Rather, failure to certify will result in an application being ineligible for grant unless the applicant comes into compliance with section 5301 within 90 days of the filing of the application. In order to assure that applicants make a good faith attempt to determine whether any parties to the application are subject to a denial of Federal benefits, the rules provide that, in cases where a certification has been incorporated into the application, the application will be dismissed for failure to respond to the question.

4. The legislative history of section 5301 suggests that an applicant will not be eligible when an "individual" who is subject to the bar remains a party to the application. Thus, the rules apply the certification provision to all parties to applications including: officers, directors, non-limited partners, holders of 5% or more of the voting stock, and non-voting stockholders or limited partners with a similar (5% or more) interest in the applicant or licensee.

5. The NPRM proposed a rule requiring licensees to notify the Commission of any section 5301 bar imposed on the licensee or any principals during the license term. Consistent with the Commission's determination that section 5301 does not provide for revocation of existing benefits, the final rule eliminates this reporting requirement.

6. Pursuant to authority contained in sections 4(i), 4(j) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j) and 303(r), and the Anti-Drug Abuse Act of 1988, 21 U.S.C. 823a, it is ordered that part 1 of the Commission's rules are amended as set forth below, effective February 3, 1992.

List of Subjects in 47 CFR Part 1

Denials of federal benefits (new).
Administrative practice and procedure.
Federal Communications Commission.
William F. Caton,
Acting Secretary.

Rule Changes

Part 1, title 47 of the Code of Federal Regulations is amended as follows:

PART 1—[AMENDED]

1. The authority citation for part 1 is revised to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303; Implement. 5

U.S.C. 552 and 21 U.S.C. 853a, unless otherwise noted.

2. A new subpart P is added to read as follows:

Subpart P—Implementation of the Anti-Drug Abuse Act of 1988

1.2001 Purpose.

1.2002 Applicants required to submit information.

1.2003 Applications affected.

Subpart P—Implement of the Anti-Drug Abuse Act of 1988.

§ 1.2001 Purpose.

To determine eligibility for professional and/or commercial licenses issued by the Commission with respect to any denials of Federal benefits imposed by Federal and/or state courts under authority granted in 21 U.S.C. 853a.

§ 1.2002 Applicants required to submit information.

(a) In order to be eligible for any new, modified, and/or renewed instrument of authorization from the Commission, including but not limited to, authorizations issued pursuant to sections 214, 301, 302, 303(1), 308, 310(d), 318, 319, 325(b), 351, 361(b), 362(b), 381, and 385 of the Communications Act of 1934, as amended, by whatever name that instrument may be designated, all applicants shall certify that neither the applicant nor any party to the application is subject to a denial of Federal benefits that includes FCC benefits pursuant to section 5301 of the Anti-Drug Abuse Act of 1988. 21 U.S.C. 853a. If a section 5301 certification has been incorporated into the FCC application form being filed, the applicant need not submit a separate certification. If a section 5301 certification has not been incorporated into the FCC application form being filed, the applicant shall be deemed to have certified by signing the application, unless an exhibit is included stating that the signature does not constitute such a certification and explaining why the applicant is unable to certify. If no FCC application form is involved, the applicant must attach a certification to its written application. If the applicant is unable to so certify, the applicant shall be ineligible for the authorization for which it applied, and will have 90 days from the filing of the application to comply with this rule. If a section 5301 certification has been incorporated into the FCC application form, failure to respond to the question concerning certification shall result in dismissal of the application pursuant to the relevant processing rules.

(b) A party to the application, as used in paragraph (a) of this section shall include:

(1) If the applicant is an individual, that individual;

(2) If the applicant is a corporation or unincorporated association, all officers, directors, or persons holding 5% or more of the outstanding stock or shares (voting and/or non-voting) of the applicant; and

(3) If the applicant is a partnership, all non-limited partners and any limited partners holding a 5% or more interest in the partnership.

(c) The provisions of paragraphs (a) and (b) of this section are not applicable to the Amateur Radio Service, the Citizens Band Radio Service, the Radio Control Radio Service, or to users in the Public Mobile Services and the Private Radio Services that are not individually licensed by the Commission.

§ 1.2003 Applications affected.

The certification required by § 1.2002 must be filed with the following applications as well as any other requests for authorization filed with the Commission, regardless of whether a specific form exists.

- FCC 301 Application for Construction Permit for Commercial Broadcast Station;
- FCC 301-A Application for Authority to Operate a Broadcast Station by Remote Control or to Make Changes in a Remote Control Authorization;
- FCC 302 Application for New Broadcast Station License;
- FCC 303-S Application for Renewal of License for Commercial and Noncommercial AM, FM or TV Broadcast Station;
- FCC 307 Application for Extension of Broadcast Construction Permit or to Replace Expired Construction Permit;
- FCC 308 Application for Permit to Deliver Programs to Foreign Broadcast Stations;
- FCC 309 Application for Authority to Construct or Make Changes in an International or Experimental Broadcast Station;
- FCC 310 Application for an International, Experimental Television, Experimental Facsimile, or a Developmental Broadcast Station License;
- FCC 311 Application for Renewal of an International or Experimental Broadcast License;
- FCC 313 Application for Authorization in the Auxiliary Radio Broadcast Services;
- FCC 313-R Application for Renewal of Auxiliary Broadcast License;
- FCC 314 Application for Consent to Assignment of Broadcast Station Construction Permit or License;
- FCC 315 Application for Consent to Transfer of Control of Corporation Holding Broadcast Station Construction Permit or License;

- FCC 316 Application for Consent to Assignment of Radio Broadcast Station Construction Permit or License or Transfer of Control of Corporation Holding Radio Broadcast Station Construction Permit or License;
- FCC 327 Application for Cable Television Relay Service Station Authorization;
- FCC 330 Application for Authorization to Construct New or Make Changes in an Instructional Television Fixed and/or Response Station(s), or to Assign or Transfer Such Stations;
- FCC 330-L Application for Instructional Television Fixed Station License;
- FCC 330-R Application for Renewal of Instructional Television Fixed Station and/or Response Station(s) and Low Power Relay Station(s) License;
- FCC 340 Application for Construction Permit for Noncommercial Educational Broadcast Station;
- FCC 345 Application for Transfer of Control of a Corporate Licensee or Permittee, or Assignment of License or Permit, for an FM or TV Translator Station, or a Low Power Television Station;
- FCC 346 Application for Authority to Construct or Make Changes in a Low Power TV, TV Translator or TV Booster Station;
- FCC 347 Application for a Low Power TV, TV Translator or TV Booster Station License;
- FCC 348 Application for Renewal of License for Translator or Low Power Television Broadcast Station;
- FCC 349 Application for Authority to Construct or Make Changes in an FM Translator or FM Booster Station;
- FCC 350 Application for an FM Translator or FM Booster Station License;
- FCC 401 Application for New or Modified Common Carrier Radio Station Authorization Under Part 22 of this chapter.
- FCC 402 Application for Station Authorization in the Private Operational Fixed Microwave Radio Service;
- FCC 402-R Renewal Notice and Certification in the Private Operational Fixed Microwave Radio Service;
- FCC 403 Application for Radio Station License or Modification Thereof Under Parts 23 or 25 of this chapter;
- FCC 404 Application for Aircraft Radio Station License;
- FCC 405 Application for Renewal of Radio Station License;
- FCC 405-A Application for Renewal of Radio Station License and/or Notification of Change to License Information;
- FCC 405-B Ship/Aircraft License Expiration Notice and/or Renewal Application;
- FCC 406 Application for Ground Station Authorization in the Aviation Services;
- FCC 407 Application for New or Modified Radio Station Construction Permit;
- FCC 409 Airborne Mobile Radio Telephone License Application;
- FCC 410 Registration of Canadian Radio Station Licensee and Application for Permit to Operate (Land Mobile);

- FCC 442 Application for New or Modified Radio Station Authorization Under Part 5 of this chapter—Experimental Radio Service (Other than Broadcast);
- FCC 490 Application for Assignment or Transfer of Control Under Part 22 of this chapter;
- FCC 493 Application for Earth Station Authorization or Modification of Station License (Proposed);
- FCC 494 Application for a New or Modified Microwave Radio Station License Under Part 21 of this chapter;
- FCC 494-A Certification of Completion of Construction Under Part 21 of this chapter;
- FCC 503 Application for Land Radio Station License in the Maritime Services;
- FCC 506 Application for Ship Radio Station License;
- FCC 574 Application for Private Land Mobile and General Mobile Radio Services;
- FCC 574-R Application for Renewal of Radio Station License;
- FCC 701 Application for Additional Time to Construct a Radio Station;
- FCC 702 Application for Consent to Assignment of Radio Station Construction Permit or License;
- FCC 703 Application for Consent to Transfer Control of Corporation Holding Station License;
- FCC 704 Application for Consent to Transfer of Control of Corporation Holding Common Carrier Radio Station Construction Permit or License;
- FCC 730 Application for Registration of Equipment to be Connected to the Telephone Network;
- FCC 731 Application for Equipment Authorization;
- FCC 753 Restricted Radiotelephone Operator Permit Application;
- FCC 755 Application for Restricted Radiotelephone Operator Permit—Limited Use;
- FCC 756 Application for Commercial Radio Operator License.

[FR Doc. 92-62 Filed 1-2-92; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 91-261; RM-7789]

Radio Broadcasting Services; Callahan, FL and St. Marys, GA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document reallots Channel 227C2 from St. Marys, Georgia, to Callahan, Florida, and modifies the license for Station WAIA(FM) to specify Callahan, Florida, as its community of license, in accordance with § 1.420(i) of the Commission's Rules. The allotment of Channel 227C2 to Callahan will provide that community with its first local FM transmission service, and will

not deprive St. Marys of its only local transmission service. See 56 FR 46762, September 16, 1991. The coordinates for Channel 227C2 at Callahan, Florida are North Latitude 30-33-22 and West Longitude 81-33-13. With this action, this proceeding is terminated.

EFFECTIVE DATE: February 10, 1992.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 91-261, adopted December 13, 1991, and released December 26, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, (202) 452-1422, 1714 21st Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Florida, is amended by adding Channel 227C2, Callahan, Florida.

3. Section 73.202(b), the Table of FM Allotments under Georgia, is amended by adding Channel 227C2, St. Marys.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92-10 Filed 1-2-92; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-567; RM-7028]

Radio Broadcasting Services; Electra, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Albert L. Crain, permittee of Station KWTa(FM), Channel 236A, Electra, Texas, substitutes Channel 235C2 for Channel 236A at Electra, Texas, and modifies its construction

permit for Station KWTa(FM) to specify operation on the higher powered channel. See 54 FR 52424, December 21, 1989. Channel 235C2 can be allocated to Electra in compliance with the Commission's minimum distance separation requirements with a site restriction of 8.3 kilometers (5.2 miles) northwest to accommodate Crain's desired transmitter site. The coordinates for Channel 235C2 are 34-06-03 and 98-57-15. With this action, this proceeding is terminated.

EFFECTIVE DATE: February 10, 1992.

FOR FURTHER INFORMATION CONTACT: Pamela Blumenthal, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-567, adopted December 12, 1991, and released December 26, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452-1422, 1714 21st Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by removing Channel 236A and adding Channel 235C2 at Electra.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92-3 Filed 1-2-92; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73 and 76

[MM Docket No. 91-168; FCC 91-403]

Radio Broadcast and Television Broadcast Services, Cable Television Service; Codification of the Commission's Political Programming Policies

AGENCY: Federal Communications Commission.

ACTION: Final rule; Policy Statement.

SUMMARY: By this Report and Order, the Commission revises its existing rules regarding political broadcasting. This action represents a comprehensive guide to political broadcasting and supersedes previous Commission interpretations of the political broadcasting provisions of the Communications Act. The Commission has sought in this proceeding to reflect more accurately and closely the language, intent and requirements of the political broadcasting portions of the Communications Act; to issue detailed and practical advice spelled out in clear and specific Commission rules so that broadcasters, candidates, advertising buyers, and the public may be fairly and consistently apprised of the duties required by rights accorded under political broadcasting statutes; and to revise the rules to be responsive to the evolving sales practices.

EFFECTIVE DATE: January 4, 1992.

FOR FURTHER INFORMATION CONTACT:

Diane L. Hofbauer, Office of General Counsel (202) 632-7020; Milton O. Gross, Robert L. Baker, or Marsha J. MacBride, Mass Media Bureau (202) 632-7586.

SUPPLEMENTARY INFORMATION: This is a full text of the Commission's Report and Order in MM Docket No. 91-168, adopted December 12, 1991, and released December 23, 1991.

Report And Order

Adopted: December 12, 1991; Released: December 23, 1991

By the Commission: Chairman Sikes concurring in part and dissenting in part and issuing a separate statement; Commissioners Quello, Marshall, Barrett, and Duggan issuing separate statements.

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